

PRESS RELEASE

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Carter-Ruck

GENERAL COURT ORDERS ANNULMENT OF EUROPEAN REGULATION FREEZING FUNDS OF SHEIKH YASSIN ABDULLAH KADI

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The General Court of the European Union in Luxembourg has today delivered a landmark decision annulling a European Regulation freezing the assets of Mr Kadi.

The European asset freezing regulation was imposed on Mr Kadi on 28 November 2008 **after** his earlier successful appeal to the European Court of Justice (ECJ) which ruled in his favour in September 2008. Mr Kadi's claim was aggressively resisted by the European Commission which was supported in its defence by the United Kingdom and France as well as the Council of the European Union.

The 3 judges of the General Court (Seventh Chamber) today ruled that the contested freezing regulation must be **annulled** insofar as it relates to Mr Kadi.

In ordering the annulment of the regulation the General Court ruled that the regulation

- was adopted in breach of Mr Kadi's rights of defence and
- in breach of Mr Kadi's rights to effective judicial review and
- constitutes an unjustified restriction of Mr Kadi's right to property.

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The General Court held that *"Such [freezing] measures are particularly draconian for those who are subject to them. All [Mr Kadi's] assets have been indefinitely frozen for nearly 10 years....the principle of a full and rigorous judicial review of such measures is all the more justified given that such measures have a marked and long-standing effect on the fundamental rights of the persons concerned"*.

In criticising the conduct of the European Commission, the General Court decided that the Commission had manifestly failed to comply with the requirements as to due process laid down by the ECJ in its September 2008 ruling. The General Court stated that

- *“[Mr Kadi’s] rights of defence have been “observed” only in the most formal and superficial sense” and*
- *“the procedure followed by the Commission....did not grant [Mr Kadi] even the most minimal access to the evidence against him.”*

In echoing the words of the UK’s Supreme Court, the General Court stated *“it was no exaggeration to say that persons designated in this way are effectively “prisoners” of the State; their freedom of movement is severely restricted without access to their funds and the effect of the freeze on both them and their families can be devastating”.*

Mr Kadi’s success today before the Luxembourg General Court follows the 13 September 2010 decision of Judge Daniels (in the United States District Court for the Southern District of New York) to dismiss in their entirety the civil claims brought against him in the United States on behalf of the families of the 9/11 victims (see press release attached).

Mr Kadi expressed his delight at these developments and added:

“I am an innocent man. Whenever I have been given a fair opportunity to state my case I have been able to show that the allegations against me are untrue. I, and others in the same position as me, are victims of a financial Guantanamo that shows no sign of ending as what was supposed to be a temporary measure becomes permanent.

It is now nearly 10 years since, at the request of and on the say so of the US, and without any due process, I was first listed by the UN. I appeal to the European Union to comply

with the decisions of the ECJ and the General Court, and to use their good offices with the US and the UN to end this continued gross injustice, which has caused me, my family and my businesses incalculable damage and suffering.

It is beyond belief that the UK and France – both Permanent Members of the UN Security Council – intervened in support of the Commission when the UK had decided, following a comprehensive review of the material available to it, to revoke its domestic freezing regulations against me.

I condemn the actions of Al Qaeda – both on 11 September 2001 and since – without hesitation and I share the belief of both the American and the Saudi peoples that the terrorism represented by Al Qaeda must be confronted. However, the struggle against terrorism will never be won if basic human rights are ignored, if people are denied the opportunity to demonstrate their innocence and if innocent people like me are wrongly targeted with no form of redress."

Mr Kadi's successful claim before the General Court was conducted by Guy Martin, Cameron Doley and Maitre Saad Djebbar (of Carter-Ruck Solicitors, London) and barristers David Anderson QC and Maya Lester of Brick Court Chambers, London.

All enquiries should initially be directed to Guy Martin on 020 7353 5005 and at guy.martin@carter-ruck.com.

Notes for Editors:

In October 2001, one week after Mr Kadi's "designation" (i.e. the freezing of his assets) by President Bush, the US administration procured his designation worldwide by the United Nations. Since then, Mr Kadi's assets have remained frozen across the globe and all attempts to reverse his designation have been blocked by the US Government. However, notwithstanding that his assets have been frozen for nearly 9 years, neither the United States nor any other country in the world has brought criminal charges of any kind against Mr Kadi.

Further, independent investigations into Mr Kadi following his appearance on the 'Bush List' by the prosecuting authorities in Switzerland, Turkey and Albania have each been discontinued on grounds that they found no evidence to support any of the allegations made against him.

Mr Kadi himself has been able to demonstrate that all and any claims concerning him that have been advanced by the United States are wholly unfounded and based on poorly vetted human source reporting, press articles and unsubstantiated gossip that no responsible government should have relied on.

In September 2008 the 14 judges of the Grand Chamber of the European Court of Justice condemned the system of designation, ruling that Mr Kadi's listing by the European Union further to his designation by the UN was unlawful and infringed his fundamental human rights to property, to a fair hearing and to effective judicial review.

Three months later in December 2008, the UK Treasury removed Mr Kadi from its UK list (a "delisting") of persons following a comprehensive review by the UK Treasury of the case against Mr Kadi. Notwithstanding this revocation Mr Kadi remained designated in the UK on a second list pursuant to separate domestic legislation. However, following a separate challenge, this second listing was annulled as a result of the decision of the Supreme Court of the United Kingdom (the highest appellate court in the UK for civil cases) on January 27, 2010 [*Her Majesty's Treasury (Respondent) v Ahmed and Others [2010] UKSC 2*].

Thus, Mr Kadi's removal from this second list was done as the result of the finding by the highest appellate court for civil cases in the UK, that any such designation (as was done in Mr Kadi's case in contravention of his fundamental rights) was illegal.